

## Schaaf, Joseph R. (EOIR)

---

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Monday, November 05, 2018 2:51 PM  
**To:** Davis, J.Thomas (EOIR)  
**Subject:** RE: 2018-51735 (Emails)

Thank you Tom. V/r Joe

---

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Monday, November 05, 2018 9:52 AM  
**To:** Averwater, Richard (EOIR) <Richard.Averwater@EOIR.USDOJ.GOV>; Holt, Rebecca L. (EOIR) <Rebecca.Holt@EOIR.USDOJ.GOV>; Miles, Vernon Benet (EOIR) <VernonBenet.Miles@EOIR.USDOJ.GOV>  
**Cc:** Mart, H. Kevin (EOIR) <H.Kevin.Mart@EOIR.USDOJ.GOV>; Schaaf, Joseph R. (EOIR) <Joseph.Schaaf@EOIR.USDOJ.GOV>  
**Subject:** FW: 2018-51735 (Emails)

I am forwarding to each of you e-mails sent to me by Joe Schaaf with EOIR OGC. His e-mails pertain to FOIA requests filed with EOIR. I will be sending to each of you two more e-mails pertaining to the same subject matter.

---

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 11:31 AM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** FW: 2018-51735 (Emails)

Tom, going VFR direct to you. There are three inquiries regarding telephonic policies at Memphis. Please see below. Please ask Judges Holt, Miles and Munson if they have any responsive records. More to follow.

V/r  
Joseph R. Schaaf  
Chief Counsel, Administrative Law  
Executive Office for Immigration Review

(b) (6)

---

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Tuesday, October 02, 2018 4:32 PM  
**To:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** FW: 2018-51735 (Emails)

Marcia, this and two related requests have something to do with Memphis changing its telephonic policies. Im not sure if it was a local decision or OCIJ. Please check OCIJ-wide and also directly with Memphis. V/r JRS

**From:** Phung, Mai (EOIR)  
**Sent:** Tuesday, September 25, 2018 3:55 PM  
**To:** Schaaf, Joseph R. (EOIR) <[Joseph.Schaaf@EOIR.USDOJ.GOV](mailto:Joseph.Schaaf@EOIR.USDOJ.GOV)>  
**Cc:** Souza, Crystal (EOIR) <[Crystal.Souza@EOIR.USDOJ.GOV](mailto:Crystal.Souza@EOIR.USDOJ.GOV)>  
**Subject:** 2018-51735 (Emails)

**From:** [61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com) <[61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com)>  
**Sent:** Tuesday, September 25, 2018 9:12 AM  
**To:** FOIARequests, EOIR (EOIR) <[EOIR.FOIARequests@EOIR.USDOJ.GOV](mailto:EOIR.FOIARequests@EOIR.USDOJ.GOV)>  
**Subject:** Freedom of Information Act Request: Guidance on Telephonic Hearings

Department of Justice, Executive Office for Immigration Review  
FOIA Office  
Suite 1903  
5107 Leesburg Pike  
Falls Church, VA 20530

September 25, 2018

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

The records from January 1, 2018 to the the date this request is processed reflecting the agency's guidance to IJs about whether and when to permit an attorney to appear via telephone.

The search should include any e-mail messages sent to any of the following: (1) [All\\_of\\_Judges@EOIR.USDOJ.GOV](mailto:All_of_Judges@EOIR.USDOJ.GOV); (2) the EOIR e-mail address for Immigration Judge Rebecca Holt, the EOIR e-mail address for Immigration Judge Vernon Miles; or the EOIR e-mail address for Immigration Judge Angela Munson. This should include messages where any of these four recipients is listed in the "to," "cc," or "bcc" fields.

The keywords to search for are "telephonic" or "by telephone"

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Matthew Hoppock

Filed via MuckRock.com

E-mail (Preferred): [61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com)

Upload documents directly: [https://www.muckrock.com/accounts/agency\\_login/departments-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply](https://www.muckrock.com/accounts/agency_login/departments-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply)

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

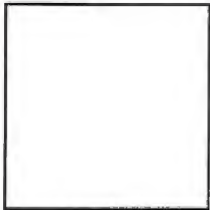
MuckRock News

DEPT MR 61707

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.





**From:** [Davis, J. Thomas \(EOIR\)](#)  
**To:** [Schaaf, Joseph R. \(EOIR\)](#)  
**Cc:** [Mart, H. Kevin \(EOIR\)](#); [St Jean, Amanda \(EOIR\)](#)  
**Subject:** FW: Stakeholder Meeting  
**Date:** Thursday, November 08, 2018 10:42:45 AM

---

Joe,

Per our conversation re: the FOIA requests related to telephonic hearings I am forwarding this e-mail to you since it contains information related to telephonic motions. I am ccing Amanda to bring her into the loop if you need to speak with her since she was present at the stakeholders' meeting conducted on Thursday, October 4.

Tom

**From:** St Jean, Amanda (EOIR)  
**Sent:** Friday, September 28, 2018 11:32 AM  
**To:** Mart, H. Kevin (EOIR) <H.Kevin.Mart@EOIR.USDOJ.GOV>  
**Cc:** Davis, J. Thomas (EOIR) <Thomas.Davis@EOIR.USDOJ.GOV>  
**Subject:** Stakeholder Meeting

Hi Judge Mart and Tom,

In preparation for the stakeholder meeting next Thursday at 10 a.m., I wanted to provide you with the status and see if you have any comments or concerns.

Tom- Will you be able to attend?

**UPDATES:** Are there any updates or changes that you would like covered during the meeting?

**AGENDA:** Today is the last day for attendees to submit agenda item questions. The following questions were just submitted so far. I have drafted some responses but would like your input before I discuss with HQ.

1. By now you've probably gotten a ton of questions about recent denials of motions for telephonic appearances. This change doesn't affect our agency's attorneys so much (we're based in Memphis), but it does affect the ability of our remote clients to appear from a nearby attorney's office. I expect y'all are already planning to address this issue – we'd just like to know what the current policy is, guidance/examples of what might constitute "exceptional circumstances" for a telephonic appearance, etc.

(b) (5)



2. Does the court plan to continue holding juvenile dockets on Tuesday mornings for the foreseeable future? (Occasionally the court sneaks in a juvenile docket on an off-day, but usually the schedule is pretty reliable from our standpoint as an LOPC provider).

(b) (5)



Thanks,  
Amanda

**From:** [Davis, J.Thomas \(EOIR\)](#)  
**To:** [Schaaf, Joseph R. \(EOIR\)](#)  
**Cc:** [Mart, H. Kevin \(EOIR\)](#); [St Jean, Amanda \(EOIR\)](#)  
**Subject:** FW: Stakeholder Meeting  
**Date:** Thursday, November 08, 2018 10:46:01 AM

---

Joe,

This e-mail is related to the last one I sent you. I responded to the questions Amanda had received from the private bar prior to the stakeholders meeting. I do not have any other written documents related to telephonic motions.

Tom

**From:** St Jean, Amanda (EOIR)  
**Sent:** Friday, September 28, 2018 12:43 PM  
**To:** Davis, J.Thomas (EOIR) <Thomas.Davis@EOIR.USDOJ.GOV>; Mart, H. Kevin (EOIR) <H.Kevin.Mart@EOIR.USDOJ.GOV>  
**Subject:** RE: Stakeholder Meeting

Tom,

Thanks for the info- very helpful! I will be in person but Judge Mart will participate either telephonically or VTC, depending on the room issue.

My apologies for not checking in with you earlier about the meeting space. Currently, we only have 6 rsvp's, would there be any rooms we could hold the meeting, such as a pro bono room or conference room?

Amanda

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Friday, September 28, 2018 12:41 PM  
**To:** St Jean, Amanda (EOIR) <[Amanda.StJean@EOIR.USDOJ.GOV](mailto:Amanda.StJean@EOIR.USDOJ.GOV)>; Mart, H. Kevin (EOIR) <[H.Kevin.Mart@EOIR.USDOJ.GOV](mailto:H.Kevin.Mart@EOIR.USDOJ.GOV)>  
**Subject:** RE: Stakeholder Meeting

Amanda/Judge Mart,

Greetings and TGIF. I will be able to attend....where and how will the meeting be conducted? VTC? In person? Telephonic? All of the courtrooms will be in use that morning. I have quickly looked at the questions. As for telephonic hearings which had been the practice all telephonic motions, as you have stated, are at the discretion of the case assigned IJ. I never guess how an IJ will rule on any type of motion. Let me think about that one a bit more since this matter is fairly new. Your answer on the second question was dead on. Juvenile master calendar cases will continue to be heard by Judge Holt on Tuesdays mornings in courtroom 1. On occasion we add a juvenile master on another day and we will do our best to get the word out. At this time no additional juvenile masters are scheduled through the end of the year.

Take care.

Tom

**From:** St Jean, Amanda (EOIR)  
**Sent:** Friday, September 28, 2018 11:32 AM  
**To:** Mart, H. Kevin (EOIR) <[H.Kevin.Mart@EOIR.USDOJ.GOV](mailto:H.Kevin.Mart@EOIR.USDOJ.GOV)>  
**Cc:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>  
**Subject:** Stakeholder Meeting

Hi Judge Mart and Tom,

In preparation for the stakeholder meeting next Thursday at 10 a.m., I wanted to provide you with the status and see if you have any comments or concerns.

Tom- Will you be able to attend?

**UPDATES:** Are there any updates or changes that you would like covered during the meeting?

**AGENDA:** Today is the last day for attendees to submit agenda item questions. The following questions were just submitted so far. I have drafted some responses but would like your input before I discuss with HQ.

1. **By now you've probably gotten a ton of questions about recent denials of motions for telephonic appearances. This change doesn't affect our agency's attorneys so much (we're based in Memphis), but it does affect the ability of our remote clients to appear from a nearby attorney's office. I expect y'all are already planning to address this issue – we'd just like to know what the current policy is, guidance/examples of what might constitute "exceptional circumstances" for a telephonic appearance, etc.**

(b) (5)

A large black rectangular redaction box covering several lines of text.

2. **Does the court plan to continue holding juvenile dockets on Tuesday mornings for the foreseeable future? (Occasionally the court sneaks in a juvenile docket on an off-day, but usually the schedule is pretty reliable from our standpoint as an LOPC provider).**

(b) (5)

A large black rectangular redaction box covering several lines of text.

Thanks,  
Amanda



## Schaaf, Joseph R. (EOIR)

---

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Monday, November 05, 2018 8:22 AM  
**To:** Schaaf, Joseph R. (EOIR)  
**Cc:** Mart, H. Kevin (EOIR)  
**Subject:** Re: FOIA 2018-51756

Joe,  
I am going through my email and have read the last two requests. I will respond to you when I get in. I will also forward the emails to the IJs.  
Tom

Sent from my iPhone

On Nov 2, 2018, at 11:52 AM, Schaaf, Joseph R. (EOIR) <[Joseph.Schaaf@EOIR.USDOJ.GOV](mailto:Joseph.Schaaf@EOIR.USDOJ.GOV)> wrote:

(b) (5)

- For the past one hundred and eighty (180) days, records sent to and/or from the national headquarters of the Executive Office for Immigration Review (or the Office of the Chief Immigration Judge) to the Memphis and LaSalle Immigration Courts, including the court administrators, J. Thomas Davis and Hunter Johnson, and the IJs, Richard J. Averwater, Rebecca L. Holt, Vernon Benet Miles and Angela Munson, that include any or all of the following terms: “telephone”; “telephonic”; “video”; and/or “extraordinary”;
- • For the past one hundred and eighty (180) days, records sent to and or from IJ Richard J. Averwater that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- • For the past one hundred and eighty (180) days, records sent to and or from IJ Rebecca L. Holt that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- • For the past one hundred and eighty (180) days, records sent to and or from IJ Vernon Benet Miles that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from J. Thomas Davis that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- • For the past one hundred and eighty (180) days, records sent to and or from IJ Angela Munson that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- • For the past one hundred and eighty (180) days, records sent to and or from IJ John A Duck, Jr. that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;



- For the past one hundred and eighty (180) days, records sent to and or from IJ Agnelis L. Reese that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Hunter Johnson that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”; and
- For the past one hundred and eighty (180) days, records sent from any of the above-named individuals containing the terms “telephone”; “telephonic”; “video”; and or “extraordinary” to representatives of the U.S. Department of Homeland Security’s Immigration & Customs Enforcement Office of the Chief Counsel.

Call me at (b) (6) if any questions. V/r JRS

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 12:41 PM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** RE: 2018-51805

Tom, second request:

CLINIC hereby requests the following records:

- o For the past one hundred and eighty (180) days, records sent to and or from IJ Richard J. Averwater that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from IJ Rebecca L. Holt that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from IJ Vernon Benet Miles that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from J. Thomas Davis that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;

(b) (5)

V/r Joe

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 12:31 PM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>

**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>

**Subject:** FW: 2018-51735 (Emails)

Tom, going VFR direct to you. There are three inquiries regarding telephonic policies at Memphis. Please see below. Please ask Judges Holt, Miles and Munson if they have any responsive records. More to follow.

V/r

Joseph R. Schaaf

Chief Counsel, Administrative Law

Executive Office for Immigration Review

(b) (6)

---

**From:** Schaaf, Joseph R. (EOIR)

**Sent:** Tuesday, October 02, 2018 4:32 PM

**To:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>

**Subject:** FW: 2018-51735 (Emails)

Marcia, this and two related requests have something to do with Memphis changing its telephonic policies. Im not sure if it was a local decision or OCIJ. Please check OCIJ-wide and also directly with Memphis. V/r JRS

---

**From:** Phung, Mai (EOIR)

**Sent:** Tuesday, September 25, 2018 3:55 PM

**To:** Schaaf, Joseph R. (EOIR) <[Joseph.Schaaf@EOIR.USDOJ.GOV](mailto:Joseph.Schaaf@EOIR.USDOJ.GOV)>

**Cc:** Souza, Crystal (EOIR) <[Crystal.Souza@EOIR.USDOJ.GOV](mailto:Crystal.Souza@EOIR.USDOJ.GOV)>

**Subject:** 2018-51735 (Emails)

---

**From:** [61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com) <[61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com)>

**Sent:** Tuesday, September 25, 2018 9:12 AM

**To:** FOIARequests, EOIR (EOIR) <[EOIR.FOIARequests@EOIR.USDOJ.GOV](mailto:EOIR.FOIARequests@EOIR.USDOJ.GOV)>

**Subject:** Freedom of Information Act Request: Guidance on Telephonic Hearings

Department of Justice, Executive Office for Immigration Review

FOIA Office

Suite 1903

5107 Leesburg Pike

Falls Church, VA 20530

September 25, 2018

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:



The records from January 1, 2018 to the the date this request is processed reflecting the agency's guidance to IJs about whether and when to permit an attorney to appear via telephone.

The search should include any e-mail messages sent to any of the following: (1) [All of Judges@EOIR.USDOJ.GOV](mailto:All_of_Judges@EOIR.USDOJ.GOV); (2) the EOIR e-mail address for Immigration Judge Rebecca Holt, the EOIR e-mail address for Immigration Judge Vernon Miles; or the EOIR e-mail address for Immigration Judge Angela Munson. This should include messages where any of these four recipients is listed in the "to," "cc," or "bcc" fields.

The keywords to search for are "telephonic" or "by telephone"

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Matthew Hoppock

Filed via [MuckRock.com](http://MuckRock.com)

E-mail (Preferred): [61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com)

Upload documents directly: [https://www.muckrock.com/accounts/agency\\_login/departments-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-](https://www.muckrock.com/accounts/agency_login/departments-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply)

[61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply](https://www.muckrock.com/accounts/agency_login/departments-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply)

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News

DEPT MR 61707

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

<image001.jpg>



## Schaaf, Joseph R. (EOIR)

---

**From:** Averwater, Richard (EOIR)  
**Sent:** Monday, November 05, 2018 1:46 PM  
**To:** Davis, J.Thomas (EOIR)  
**Cc:** Mart, H. Kevin (EOIR); Schaaf, Joseph R. (EOIR)  
**Subject:** RE: FOIA 2018-51756

Tom, I have no emails I know of regarding whether or not to hold telephonic Court hearings.

We were told verbally by ACIJ Mart that it was up to each individual Judge, but I don't recall the date exactly when he told us that.

Thank you,

Richard Averwater  
Memphis, TN

---

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Monday, November 05, 2018 8:53 AM  
**To:** Averwater, Richard (EOIR) <Richard.Averwater@EOIR.USDOJ.GOV>; Holt, Rebecca L. (EOIR) <Rebecca.Holt@EOIR.USDOJ.GOV>; Miles, Vernon Benet (EOIR) <VernonBenet.Miles@EOIR.USDOJ.GOV>  
**Cc:** Mart, H. Kevin (EOIR) <H.Kevin.Mart@EOIR.USDOJ.GOV>; Schaaf, Joseph R. (EOIR) <Joseph.Schaaf@EOIR.USDOJ.GOV>  
**Subject:** FW: FOIA 2018-51756

---

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 11:52 AM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>; Johnson, Hunter (EOIR) <[Hunter.Johnson@EOIR.USDOJ.GOV](mailto:Hunter.Johnson@EOIR.USDOJ.GOV)>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** FOIA 2018-51756

(b) (5)

- For the past one hundred and eighty (180) days, records sent to and/or from the national headquarters of the Executive Office for Immigration Review (or the Office of the Chief Immigration Judge) to the Memphis and LaSalle Immigration Courts, including the court administrators, J. Thomas Davis and Hunter Johnson, and the IJs, Richard J. Averwater, Rebecca L. Holt, Vernon Benet Miles and Angela Munson, that include any or all of the following terms: “telephone”; “telephonic”; “video”; and/or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Richard J. Averwater that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Rebecca L. Holt that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;

- For the past one hundred and eighty (180) days, records sent to and or from IJ Vernon Benet Miles that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from J. Thomas Davis that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Angela Munson that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ John A Duck, Jr. that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Agnelis L. Reese that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Hunter Johnson that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”; and
- For the past one hundred and eighty (180) days, records sent from any of the above-named individuals containing the terms “telephone”; “telephonic”; “video”; and or “extraordinary” to representatives of the U.S. Department of Homeland Security’s Immigration & Customs Enforcement Office of the Chief Counsel.

Call me at (b) (6) if any questions. V/r JRS

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 12:41 PM  
**To:** Davis, J. Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** RE: 2018-51805

Tom, second request:

CLINIC hereby requests the following records:

- o For the past one hundred and eighty (180) days, records sent to and or from IJ Richard J. Averwater that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from IJ Rebecca L. Holt that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from IJ Vernon Benet Miles that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from J. Thomas Davis that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;

(b) (5)

V/r Joe



**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 12:31 PM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** FW: 2018-51735 (Emails)

Tom, going VFR direct to you. There are three inquiries regarding telephonic policies at Memphis. Please see below. Please ask Judges Holt, Miles and Munson if they have any responsive records. More to follow.

V/r  
Joseph R. Schaaf  
Chief Counsel, Administrative Law  
Executive Office for Immigration Review

(b) (6)

---

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Tuesday, October 02, 2018 4:32 PM  
**To:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** FW: 2018-51735 (Emails)

Marcia, this and two related requests have something to do with Memphis changing its telephonic policies. Im not sure if it was a local decision or OCIJ. Please check OCIJ-wide and also directly with Memphis. V/r JRS

---

**From:** Phung, Mai (EOIR)  
**Sent:** Tuesday, September 25, 2018 3:55 PM  
**To:** Schaaf, Joseph R. (EOIR) <[Joseph.Schaaf@EOIR.USDOJ.GOV](mailto:Joseph.Schaaf@EOIR.USDOJ.GOV)>  
**Cc:** Souza, Crystal (EOIR) <[Crystal.Souza@EOIR.USDOJ.GOV](mailto:Crystal.Souza@EOIR.USDOJ.GOV)>  
**Subject:** 2018-51735 (Emails)

---

**From:** [61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com) <[61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com)>  
**Sent:** Tuesday, September 25, 2018 9:12 AM  
**To:** FOIARequests, EOIR (EOIR) <[EOIR.FOIARequests@EOIR.USDOJ.GOV](mailto:EOIR.FOIARequests@EOIR.USDOJ.GOV)>  
**Subject:** Freedom of Information Act Request: Guidance on Telephonic Hearings

Department of Justice, Executive Office for Immigration Review  
FOIA Office  
Suite 1903  
5107 Leesburg Pike  
Falls Church, VA 20530

September 25, 2018

To Whom It May Concern:



Pursuant to the Freedom of Information Act, I hereby request the following records:

The records from January 1, 2018 to the the date this request is processed reflecting the agency's guidance to IJs about whether and when to permit an attorney to appear via telephone.

The search should include any e-mail messages sent to any of the following: (1) [All\\_of\\_Judges@EOIR.USDOJ.GOV](mailto:All_of_Judges@EOIR.USDOJ.GOV); (2) the EOIR e-mail address for Immigration Judge Rebecca Holt, the EOIR e-mail address for Immigration Judge Vernon Miles; or the EOIR e-mail address for Immigration Judge Angela Munson. This should include messages where any of these four recipients is listed in the "to," "cc," or "bcc" fields.

The keywords to search for are "telephonic" or "by telephone"

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Matthew Hoppock

Filed via MuckRock.com

E-mail (Preferred): [61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com)

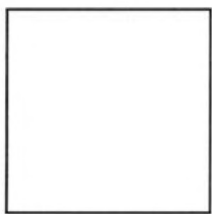
Upload documents directly: [https://www.muckrock.com/accounts/agency\\_login/department-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply](https://www.muckrock.com/accounts/agency_login/department-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply)

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News  
DEPT MR 61707  
411A Highland Ave  
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.



## Schaaf, Joseph R. (EOIR)

---

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Thursday, November 08, 2018 10:22 AM  
**To:** Schaaf, Joseph R. (EOIR)  
**Cc:** Mart, H. Kevin (EOIR)  
**Subject:** FW: Telephonic Hearings

Joe,  
Good morning. Per our phone conversation this is the e-mail I received from (b) (6) the AILA liaison, re: (b) (6) e-mail regarding the telephonic hearings. I will be forwarding to you the information I have regarding the stakeholders' meeting where telephonic hearings were discussed with members of the private bar. As we discussed none of the IJs have any written documents related to motions for telephonic appearances.

Please let me know if you have any questions re: this information. I appreciate your assistance with this matter.  
Tom

**From:** Mart, H. Kevin (EOIR)  
**Sent:** Tuesday, September 25, 2018 2:31 PM  
**To:** Davis, J.Thomas (EOIR) <Thomas.Davis@EOIR.USDOJ.GOV>  
**Subject:** RE: Telephonic Hearings

Whether a judge allows a telephonic hearing is left to the judge's discretion. The regs say that an IJ may conduct telephonic hearings. There is no mandatory language. Also the CA does not get involved with an IJs rulings on motions. Each motion is decided upon by the IJ handling that case.

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Tuesday, September 25, 2018 2:51 PM  
**To:** Mart, H. Kevin (EOIR) <[H.Kevin.Mart@EOIR.USDOJ.GOV](mailto:H.Kevin.Mart@EOIR.USDOJ.GOV)>  
**Subject:** Telephonic Hearings

Judge Mart,  
Good afternoon. Below is an e-mail shared with me by (b) (6) local AILA liaison. This type of reaction was expected, but just making you aware of the matter. As we all discussed most Immigration Courts do not conduct telephonic hearings. The firms will simply have to make a business decision.  
Take care.  
Tom

Dear (b) (6)

I hope this email finds you well. I am reaching out to you, as the AILA EOIR Liaison, regarding Judge Holt's and Judge Miles' recent change in policy regarding telephonic appearance for master calendar hearings. It seems that these judges are now routinely denying motions for these hearings. As of this morning, I received orders from both judges denying our firm's motion for telephonic appearance because there are no "extraordinary circumstances" present.



Our attorneys (b) (6) and I, all live and practice in Little Rock, Arkansas. The trip to Memphis takes us anywhere from 2 ½ - 3 hours *each way* on average, and can take even longer if there are accidents, construction, or bad weather. That means that we lose almost an entire day of work to travel each time we have to travel to Memphis. We generally have master calendar hearings before the Memphis Immigration Court 2-4 days/week. It's simply not feasible for a firm of our size to lose an attorney that many days/week for such short (3-5 minute), routine hearings. If our attorneys can't appear telephonically at master calendar hearings, the reality is that we will not be able to represent respondents before these judges. Our clients are already on payment plans and can't afford for us to increase our fees to cover additional travel time or to pay a local Memphis attorney to cover a master calendar hearing. Our firm isn't comfortable or willing to take on the increased liability of having one of our attorneys driving to and from Memphis on an almost daily basis, or the increased liability of having a local Memphis attorney who isn't familiar with a case cover a master calendar hearing. These circumstances have existed as long as we have practiced before the Memphis Immigration Court, and our motions for telephonic appearances have always been granted. Although at first blush the judges may not consider our distance from/travel time to the Court an "extraordinary circumstance," it is sufficiently extraordinary as to significantly impede our ability to take cases before the Memphis Immigration Court.

I know that other members of the private bar are in the same/similar situation, and I think the result will be that fewer attorneys will represent respondents before the Memphis Immigration Court, which will in turn result in more pro se respondents before the Court. Without any explanation from the judges as to why they've started denying telephonic appearances, I can only assume that the underlying rationale is that telephonic hearings are taking too long because judges have to get the attorneys on the phone. I can only speak for our firm when I say that we are always at our desk waiting and ready for the judge's call. (In all my years practicing before the Court, I can recall only one time that Judge Holt called me and I was in the restroom) From what I've seen in the Court and heard from other attorneys and judges, hearings with pro se respondents generally take longer than hearings in which the respondents are represented by counsel. So, if the judges are trying to be efficient with their time in order to complete their master calendar dockets, an increase in pro se respondents will likely have the opposite effect.

I hope that you are able to discuss this matter with Tom Davis so that there can hopefully be a quick resolution to the matter. In the meantime, our office is making the necessary arrangements for pending cases and taking this new policy into consideration when accepting new cases. I hope to hear from you soon.

Thanks,

(b) (6)

(b) (6)



J. Thomas Davis  
Court Administrator  
USDOJ/EOIR/Immigration Court  
80 Monroe Ave, Suite 501  
Memphis, TN 38103

**From:** [Davis, J.Thomas \(EOIR\)](#)  
**To:** [Schaaf, Joseph R. \(EOIR\)](#)  
**Subject:** FW: Telephonic Hearings  
**Date:** Tuesday, November 27, 2018 3:25:22 PM

---

**From:** Mart, H. Kevin (EOIR)  
**Sent:** Tuesday, September 25, 2018 2:31 PM  
**To:** Davis, J.Thomas (EOIR) <Thomas.Davis@EOIR.USDOJ.GOV>  
**Subject:** RE: Telephonic Hearings

Whether a judge allows a telephonic hearing is left to the judge's discretion. The regs say that an IJ may conduct telephonic hearings. There is no mandatory language. Also the CA does not get involved with an IJs rulings on motions. Each motion is decided upon by the IJ handling that case.

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Tuesday, September 25, 2018 2:51 PM  
**To:** Mart, H. Kevin (EOIR) <[H.Kevin.Mart@EOIR.USDOJ.GOV](mailto:H.Kevin.Mart@EOIR.USDOJ.GOV)>  
**Subject:** Telephonic Hearings

Judge Mart,

Good afternoon. Below is an e-mail shared with me by (b) (6), local AILA liaison. This type of reaction was expected, but just making you aware of the matter. As we all discussed most Immigration Courts do not conduct telephonic hearings. The firms will simply have to make a business decision.

Take care.  
Tom

Dear (b) (6)

I hope this email finds you well. I am reaching out to you, as the AILA EOIR Liaison, regarding Judge Holt's and Judge Miles' recent change in policy regarding telephonic appearance for master calendar hearings. It seems that these judges are now routinely denying motions for these hearings. As of this morning, I received orders from both judges denying our firm's motion for telephonic appearance because there are no "extraordinary circumstances" present.

Our attorneys, (b) (6) and I, all live and practice in Little Rock, Arkansas. The trip to Memphis takes us anywhere from 2 ½ - 3 hours *each way* on average, and can take even longer if there are accidents, construction, or bad weather. That means that we lose almost an entire day of work to travel each time we have to travel to Memphis. We generally have master calendar hearings before the Memphis Immigration Court 2-4 days/week. It's simply not feasible for a firm of our size to lose an attorney that many days/week for such short (3-5 minute), routine hearings. If our attorneys can't appear telephonically at master calendar hearings, the reality is that we will not be able to represent respondents before these judges. Our clients are already on payment plans and can't afford for us to increase our fees to cover additional travel time or to pay a



local Memphis attorney to cover a master calendar hearing. Our firm isn't comfortable or willing to take on the increased liability of having one of our attorneys driving to and from Memphis on an almost daily basis, or the increased liability of having a local Memphis attorney who isn't familiar with a case cover a master calendar hearing. These circumstances have existed as long as we have practiced before the Memphis Immigration Court, and our motions for telephonic appearances have always been granted. Although at first blush the judges may not consider our distance from/travel time to the Court an "extraordinary circumstance," it is sufficiently extraordinary as to significantly impede our ability to take cases before the Memphis Immigration Court.

I know that other members of the private bar are in the same/similar situation, and I think the result will be that fewer attorneys will represent respondents before the Memphis Immigration Court, which will in turn result in more pro se respondents before the Court. Without any explanation from the judges as to why they've started denying telephonic appearances, I can only assume that the underlying rationale is that telephonic hearings are taking too long because judges have to get the attorneys on the phone. I can only speak for our firm when I say that we are always at our desk waiting and ready for the judge's call. (In all my years practicing before the Court, I can recall only one time that Judge Holt called me and I was in the restroom) From what I've seen in the Court and heard from other attorneys and judges, hearings with pro se respondents generally take longer than hearings in which the respondents are represented by counsel. So, if the judges are trying to be efficient with their time in order to complete their master calendar dockets, an increase in pro se respondents will likely have the opposite effect.

I hope that you are able to discuss this matter with Tom Davis so that there can hopefully be a quick resolution to the matter. In the meantime, our office is making the necessary arrangements for pending cases and taking this new policy into consideration when accepting new cases. I hope to hear from you soon.

Thanks,

(b)

[REDACTED]

J. Thomas Davis  
Court Administrator  
USDOJ/EOIR/Immigration Court  
80 Monroe Ave, Suite 501  
Memphis, TN 38103

**From:** [Davis, J.Thomas \(EOIR\)](#)  
**To:** [Schaaf, Joseph R. \(EOIR\)](#)  
**Subject:** Stakeholder Meeting  
**Date:** Tuesday, November 27, 2018 3:29:59 PM

---

**From:** St Jean, Amanda (EOIR)  
**Sent:** Friday, September 28, 2018 12:43 PM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>; Mart, H. Kevin (EOIR) <[H.Kevin.Mart@EOIR.USDOJ.GOV](mailto:H.Kevin.Mart@EOIR.USDOJ.GOV)>  
**Subject:** RE: Stakeholder Meeting

Tom,

Thanks for the info- very helpful! I will be in person but Judge Mart will participate either telephonically or VTC, depending on the room issue.

My apologies for not checking in with you earlier about the meeting space. Currently, we only have 6 rsvp's, would there be any rooms we could hold the meeting, such as a pro bono room or conference room?

Amanda

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Friday, September 28, 2018 12:41 PM  
**To:** St Jean, Amanda (EOIR) <[Amanda.StJean@EOIR.USDOJ.GOV](mailto:Amanda.StJean@EOIR.USDOJ.GOV)>; Mart, H. Kevin (EOIR) <[H.Kevin.Mart@EOIR.USDOJ.GOV](mailto:H.Kevin.Mart@EOIR.USDOJ.GOV)>  
**Subject:** RE: Stakeholder Meeting

Amanda/Judge Mart,  
Greetings and TGIF. I will be able to attend....where and how will the meeting be conducted? VTC? In person? Telephonic? All of the courtrooms will be in use that morning. I have quickly looked at the questions. As for telephonic hearings which had been the practice all telephonic motions, as you have stated, are at the discretion of the case assigned IJ. I never guess how an IJ will rule on any type of motion. Let me think about that one a bit more since this matter is fairly new. Your answer on the second question was dead on. Juvenile master calendar cases will continue to be heard by Judge Holt on Tuesdays mornings in courtroom 1. On occasion we add a juvenile master on another day and we will do our best to get the word out. At this time no additional juvenile masters are scheduled through the end of the year. Take care.  
Tom

**From:** St Jean, Amanda (EOIR)  
**Sent:** Friday, September 28, 2018 11:32 AM  
**To:** Mart, H. Kevin (EOIR) <[H.Kevin.Mart@EOIR.USDOJ.GOV](mailto:H.Kevin.Mart@EOIR.USDOJ.GOV)>  
**Cc:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>  
**Subject:** Stakeholder Meeting

Hi Judge Mart and Tom,

In preparation for the stakeholder meeting next Thursday at 10 a.m., I wanted to provide you with the status and see if you have any comments or concerns.

Tom- Will you be able to attend?

**UPDATES:** Are there any updates or changes that you would like covered during the meeting?

**AGENDA:** Today is the last day for attendees to submit agenda item questions. The following questions were just submitted so far. I have drafted some responses but would like your input before I discuss with HQ.

1. **By now you've probably gotten a ton of questions about recent denials of motions for telephonic appearances. This change doesn't affect our agency's attorneys so much (we're based in Memphis), but it does affect the ability of our remote clients to appear from a nearby attorney's office. I expect y'all are already planning to address this issue – we'd just like to know what the current policy is, guidance/examples of what might constitute "exceptional circumstances" for a telephonic appearance, etc.**

(b) (5)

A large black rectangular redaction box covering several lines of text.

2. **Does the court plan to continue holding juvenile dockets on Tuesday mornings for the foreseeable future? (Occasionally the court sneaks in a juvenile docket on an off-day, but usually the schedule is pretty reliable from our standpoint as an LOPC provider).**

(b) (5)

A large black rectangular redaction box covering several lines of text.

Thanks,  
Amanda

J. Thomas Davis  
Court Administrator  
USDOJ/EOIR/Immigration Court  
80 Monroe Ave, Suite 501  
Memphis, TN 38103

**PRIVACY AND CONFIDENTIALITY STATEMENT:** This e-mail message and any attachments are intended only for the use of the addressee named above and contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly unauthorized and prohibited. If you received this e-mail message in error, please immediately notify the sender by replying to this e-mail message or by telephone. Thank you.



## Schaaf, Joseph R. (EOIR)

---

**From:** Mart, H. Kevin (EOIR)  
**Sent:** Friday, November 02, 2018 4:29 PM  
**To:** Schaaf, Joseph R. (EOIR)  
**Subject:** RE: FOIA 2018-51756

There was no policy change on telephonic hearings. I met with the Memphis judges at the end of September to discuss a variety of matters primarily performance measures. I did discuss telephonic hearings but no policy was discussed. I informed the judges that as with any motion the decision on a motion is up to them but to also take into consideration their respective dockets and the merits of the motion before them and that they decide whether or not to grant a motion for a telephonic hearing. It's their call on granting or denying a motion. On October 4<sup>th</sup> we had a stakeholder meeting in Memphis organized by PIO Amanda St Jean. The topic of telephonic hearings was raised and I answered that all motions are decided by the individual judge and they will decide the motion based upon the arguments and evidence in the motion. I have had no complaints nor communications regarding telephonic hearings in Memphis.

Thanks,

Kevin

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 12:59 PM  
**To:** Mart, H. Kevin (EOIR) <H.Kevin.Mart@EOIR.USDOJ.GOV>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <Marcia.Lee-Sullivan@EOIR.USDOJ.GOV>  
**Subject:** FW: FOIA 2018-51756

Judge Mart, can you tell me was there a policy change in telephonic appearances for your AOR a month or so ago? If so, I might be able to answer these without going through all these searches. V/r Joe

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 12:52 PM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>; Johnson, Hunter (EOIR) <[Hunter.Johnson@EOIR.USDOJ.GOV](mailto:Hunter.Johnson@EOIR.USDOJ.GOV)>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** FOIA 2018-51756

(b) (5)

A large black rectangular redaction box covers the content of the email body between the second and third email headers.

- For the past one hundred and eighty (180) days, records sent to and/or from the national headquarters of the Executive Office for Immigration Review (or the Office of the Chief Immigration Judge) to the Memphis and LaSalle Immigration Courts, including the court administrators, J. Thomas Davis and Hunter Johnson, and the IJs, Richard J. Averwater, Rebecca L. Holt, Vernon Benet Miles and Angela Munson, that include any or all of the following terms: “telephone”; “telephonic”; “video”; and/or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Richard J. Averwater that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;

- For the past one hundred and eighty (180) days, records sent to and or from IJ Rebecca L. Holt that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Vernon Benet Miles that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from J. Thomas Davis that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Angela Munson that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ John A Duck, Jr. that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Agnelis L. Reese that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- For the past one hundred and eighty (180) days, records sent to and or from IJ Hunter Johnson that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”; and
- For the past one hundred and eighty (180) days, records sent from any of the above-named individuals containing the terms “telephone”; “telephonic”; “video”; and or “extraordinary” to representatives of the U.S. Department of Homeland Security’s Immigration & Customs Enforcement Office of the Chief Counsel.

Call me at (b) (6) if any questions. V/r JRS

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 12:41 PM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** RE: 2018-51805

Tom, second request:

CLINIC hereby requests the following records:

- o For the past one hundred and eighty (180) days, records sent to and or from IJ Richard J. Averwater that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from IJ Rebecca L. Holt that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from IJ Vernon Benet Miles that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;
- o For the past one hundred and eighty (180) days, records sent to and or from J. Thomas Davis that include any or all of the following terms: “telephone”; “telephonic”; “video”; and or “extraordinary”;

You only need to provide the ones that have to do with “what appears to be a new policy or practice in place at the Memphis Immigration Court (the “Court”) whereby Immigration Judges (“IJ”) deny requests to appear telephonically in the absence of “extraordinary circumstances”



V/r Joe

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Friday, November 02, 2018 12:31 PM  
**To:** Davis, J.Thomas (EOIR) <[Thomas.Davis@EOIR.USDOJ.GOV](mailto:Thomas.Davis@EOIR.USDOJ.GOV)>  
**Cc:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** FW: 2018-51735 (Emails)

Tom, going VFR direct to you. There are three inquiries regarding telephonic policies at Memphis. Please see below. Please ask Judges Holt, Miles and Munson if they have any responsive records. More to follow.

V/r  
Joseph R. Schaaf  
Chief Counsel, Administrative Law  
Executive Office for Immigration Review  
(b) (6)

---

**From:** Schaaf, Joseph R. (EOIR)  
**Sent:** Tuesday, October 02, 2018 4:32 PM  
**To:** Lee-Sullivan, Marcia L. (EOIR) <[Marcia.Lee-Sullivan@EOIR.USDOJ.GOV](mailto:Marcia.Lee-Sullivan@EOIR.USDOJ.GOV)>  
**Subject:** FW: 2018-51735 (Emails)

Marcia, this and two related requests have something to do with Memphis changing its telephonic policies. Im not sure if it was a local decision or OCIJ. Please check OCIJ-wide and also directly with Memphis. V/r JRS

---

**From:** Phung, Mai (EOIR)  
**Sent:** Tuesday, September 25, 2018 3:55 PM  
**To:** Schaaf, Joseph R. (EOIR) <[Joseph.Schaaf@EOIR.USDOJ.GOV](mailto:Joseph.Schaaf@EOIR.USDOJ.GOV)>  
**Cc:** Souza, Crystal (EOIR) <[Crystal.Souza@EOIR.USDOJ.GOV](mailto:Crystal.Souza@EOIR.USDOJ.GOV)>  
**Subject:** 2018-51735 (Emails)

---

**From:** [61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com) <[61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com)>  
**Sent:** Tuesday, September 25, 2018 9:12 AM  
**To:** FOIARequests, EOIR (EOIR) <[EOIR.FOIARequests@EOIR.USDOJ.GOV](mailto:EOIR.FOIARequests@EOIR.USDOJ.GOV)>  
**Subject:** Freedom of Information Act Request: Guidance on Telephonic Hearings

Department of Justice, Executive Office for Immigration Review  
FOIA Office  
Suite 1903  
5107 Leesburg Pike  
Falls Church, VA 20530

September 25, 2018



To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

The records from January 1, 2018 to the the date this request is processed reflecting the agency's guidance to IJs about whether and when to permit an attorney to appear via telephone.

The search should include any e-mail messages sent to any of the following: (1) [All of Judges@EOIR.USDOJ.GOV](mailto:All_of_Judges@EOIR.USDOJ.GOV); (2) the EOIR e-mail address for Immigration Judge Rebecca Holt, the EOIR e-mail address for Immigration Judge Vernon Miles; or the EOIR e-mail address for Immigration Judge Angela Munson. This should include messages where any of these four recipients is listed in the "to," "cc," or "bcc" fields.

The keywords to search for are "telephonic" or "by telephone"

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Matthew Hoppock

Filed via MuckRock.com

E-mail (Preferred): [61707-85443197@requests.muckrock.com](mailto:61707-85443197@requests.muckrock.com)

Upload documents directly: [https://www.muckrock.com/accounts/agency\\_login/departments-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply](https://www.muckrock.com/accounts/agency_login/departments-justice-executive-office-immigration-review-4122/guidance-on-telephonic-hearings-61707/?email=EOIR.FOIARequests%40usdoj.gov&uuid-login=e25faeb8-3474-4251-8723-1e8c78bfcc68#agency-reply)

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News  
DEPT MR 61707  
411A Highland Ave  
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

**From:** [Davis, J.Thomas \(EOIR\)](#)  
**To:** [Schaaf, Joseph R. \(EOIR\)](#)  
**Subject:** FW: Telephonic Hearings  
**Date:** Tuesday, November 27, 2018 3:25:22 PM

---

**From:** Mart, H. Kevin (EOIR)  
**Sent:** Tuesday, September 25, 2018 2:31 PM  
**To:** Davis, J.Thomas (EOIR) <Thomas.Davis@EOIR.USDOJ.GOV>  
**Subject:** RE: Telephonic Hearings

Whether a judge allows a telephonic hearing is left to the judge's discretion. The regs say that an IJ may conduct telephonic hearings. There is no mandatory language. Also the CA does not get involved with an IJ's rulings on motions. Each motion is decided upon by the IJ handling that case.

**From:** Davis, J.Thomas (EOIR)  
**Sent:** Tuesday, September 25, 2018 2:51 PM  
**To:** Mart, H. Kevin (EOIR) <[H.Kevin.Mart@EOIR.USDOJ.GOV](mailto:H.Kevin.Mart@EOIR.USDOJ.GOV)>  
**Subject:** Telephonic Hearings

Judge Mart,

Good afternoon. Below is an e-mail shared with me by (b) (6), local AILA liaison. This type of reaction was expected, but just making you aware of the matter. As we all discussed most Immigration Courts do not conduct telephonic hearings. The firms will simply have to make a business decision.

Take care.

Tom

Dear (b) (6)

I hope this email finds you well. I am reaching out to you, as the AILA EOIR Liaison, regarding Judge Holt's and Judge Miles' recent change in policy regarding telephonic appearance for master calendar hearings. It seems that these judges are now routinely denying motions for these hearings. As of this morning, I received orders from both judges denying our firm's motion for telephonic appearance because there are no "extraordinary circumstances" present.

Our attorneys, (b) (6) and I, all live and practice in Little Rock, Arkansas. The trip to Memphis takes us anywhere from 2 ½ - 3 hours **each way** on average, and can take even longer if there are accidents, construction, or bad weather. That means that we lose almost an entire day of work to travel each time we have to travel to Memphis. We generally have master calendar hearings before the Memphis Immigration Court 2-4 days/week. It's simply not feasible for a firm of our size to lose an attorney that many days/week for such short (3-5 minute), routine hearings. If our attorneys can't appear telephonically at master calendar hearings, the reality is that we will not be able to represent respondents before these judges. Our clients are already on payment plans and can't afford for us to increase our fees to cover additional travel time or to pay a

local Memphis attorney to cover a master calendar hearing. Our firm isn't comfortable or willing to take on the increased liability of having one of our attorneys driving to and from Memphis on an almost daily basis, or the increased liability of having a local Memphis attorney who isn't familiar with a case cover a master calendar hearing. These circumstances have existed as long as we have practiced before the Memphis Immigration Court, and our motions for telephonic appearances have always been granted. Although at first blush the judges may not consider our distance from/travel time to the Court an "extraordinary circumstance," it is sufficiently extraordinary as to significantly impede our ability to take cases before the Memphis Immigration Court.

I know that other members of the private bar are in the same/similar situation, and I think the result will be that fewer attorneys will represent respondents before the Memphis Immigration Court, which will in turn result in more pro se respondents before the Court. Without any explanation from the judges as to why they've started denying telephonic appearances, I can only assume that the underlying rationale is that telephonic hearings are taking too long because judges have to get the attorneys on the phone. I can only speak for our firm when I say that we are always at our desk waiting and ready for the judge's call. (In all my years practicing before the Court, I can recall only one time that Judge Holt called me and I was in the restroom) From what I've seen in the Court and heard from other attorneys and judges, hearings with pro se respondents generally take longer than hearings in which the respondents are represented by counsel. So, if the judges are trying to be efficient with their time in order to complete their master calendar dockets, an increase in pro se respondents will likely have the opposite effect.

I hope that you are able to discuss this matter with Tom Davis so that there can hopefully be a quick resolution to the matter. In the meantime, our office is making the necessary arrangements for pending cases and taking this new policy into consideration when accepting new cases. I hope to hear from you soon.

Thanks,

(b)

[REDACTED]

J. Thomas Davis  
Court Administrator  
USDOJ/EOIR/Immigration Court  
80 Monroe Ave, Suite 501  
Memphis, TN 38103